IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SEVENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

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WRIT PETITION NO : 20338 of 2003

Between:

K.Gangadhar, s/o.Sivaram, R/o.Ambugaon Village Kuntala Mandal, Adilabad District

..... PETITIONER

AND

1 The Forest Range Officer, Bhainsa, Adilabad District.
2 The Divisional Forest Officer, Nirmal, Adilabad District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of certiorari calling for the records pertaining to the notice in Rc.No.V.S.S./Ambugaon/2003(B), dated 14.09.2003 as being arbitrary, illegal and violative of Articles 14 and 19(1) (g) of the Constitution of India and issue a consequential direction to the respondents not to proceed further pursuant to the issuance of the notice dated 14.09.2003 and direct the respondents to continue the petitioner as Chair-Person of Ambugaon Vana Samrakashana Samithin, Kuntala Mandal, Adilabad District.

Counsel for the Petitioner: MR.C.H.SATISH KUMAR

Counsel for the Respondents.: GP FOR MEDICAL HEALTH & FAMI.WELFARE

The Court made the following :

ORAL ORDER:

Heard both sides and t their request, the main writ petition itself is taken up for disposal.

The petitioner, who is Chair-Person of Ambugaon Vana Samrakashana Samithin, Kuntala Mandal, Adilabad District, filed this writ petition inter alia seeking to assail the impugned notice dated 14-9-2003 issued by the first respondent herein as illegal and without power, authority and jurisdiction.

The case of the petitioner is that he has been appointed on the recommendations of the first respondent by the proceedings of the 2nd respondent herein as per the rules framed under GOMs. No.13, Energy Forest, Environment, Science and Technology (For. III) Department, dated 12-9-2002 and therefore issuance of any such show cause notice by the first respondent, who is a Forest Range Officer concerned, is totally without power, authority and jurisdiction. Further, it was also pointed out that under the very same show cause notice the respondent No.1 is virtually taken a decision to conduct election on 25-9-2003, which is called a pre-meditation. Hence, the writ petition.

Learned counsel appearing on behalf of the respondents, though sought to sustain the impugned action of the respondents, however, is not able to point out the source

of power under which the first respondent can initiate the proceedings of the nature.

Having heard the counsel on either side and on perusal of the material, it is seen that there is no dispute in regard to the factum that the petitioner, as a Chairperson, was appointed by the proceedings of the Divisional Forest Officer under the aforesaid GOMs No. 13, dated 12-2-2002, such appointment is normally being made on the recommendations by the concerned Forest Range Officer. Therefore, the Forest Range Officer is neither appointing nor competent authority to initiate any proceedings. In view of the same, the impugned action is liable to be set aside. Even otherwise, the very charge which is accompanied with the notice also predetermines the action and the elections as shown to be held on 25-9-2003 which is again interfering in the decision making process. In these circumstances, I do not find any justification either in law or on facts in regard to the impugned action.

Writ petition is accordingly allowed and the impugned notice dated 14-9-2003 is set aside. No costs.

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B. PRAKASH RAO, J

Dt.27-8-2004

KVRK

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Friday the Twenty Seventh day of August Two thousand and Four.

Asst. Registrar

To

1 The Forest Range Officer, Bhainsa, Adilabad District.
2 The Divisional Forest Officer, Nirmal, Adilabad District.

3. Two copies to GO for GP FOR MEDICAL HEALTH & FAMI.WELFARE

4. Two CD copies.

THE HON'BLE SRI JUSTICE B. PRAKASH RAO

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WRIT PETITION NO.20338 OF 2003

DATED: 27-08-2004